

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

OSWALD PORTILLO,

Petitioner,

v.

M.D. BITER, Warden,

Respondent.

Case No. CV 12-6447 BRO(JC)

ORDER ACCEPTING FINDINGS,  
CONCLUSIONS, AND  
RECOMMENDATIONS OF  
UNITED STATES MAGISTRATE  
JUDGE

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition for Writ of Habeas Corpus by a Person in State Custody (“Petition”) and all of the records herein, including the attached Report and Recommendation of United States Magistrate Judge (“Report and Recommendation”), and petitioner’s objections to the Report and Recommendation (“Objections”). The Court has further made a *de novo* determination of those portions of the Report and Recommendation to which objection is made.<sup>1</sup> The Court concurs with and accepts the findings, conclusions,

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<sup>1</sup>This Court, in an exercise of its discretion, declines to consider new evidence and arguments presented for the first time in the Traverse and/or the Objections. See Delgadillo v. Woodford, 527 F.3d 919, 930 n.4 (9th Cir. 2008) (“Arguments raised for the first time in [a habeas] petitioner’s reply brief are deemed waived.”); United States v. Howell, 231 F.3d 615,

(continued...)

1 and recommendations of the United States Magistrate Judge and overrules the  
2 Objections.

3 IT IS ORDERED that Judgment be entered denying the Petition and  
4 dismissing this action with prejudice.

5 IT IS FURTHER ORDERED that the Clerk serve copies of this Order, the  
6 Report and Recommendation, and the Judgment herein on petitioner and counsel  
7 for respondent.

8 LET JUDGMENT BE ENTERED ACCORDINGLY.

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10 DATED: July 13, 2015

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13 HONORABLE BEVERLY REID O'CONNELL  
14 UNITED STATES DISTRICT JUDGE  
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26 <sup>1</sup>(...continued)  
27 621-22th Cir. 2000) (district court may decline to consider new allegations presented for the first  
28 time in objections), cert. denied, 534 U.S. 831 (2001); Cacoperdo v. Demosthenes, 37 F.3d 504,  
507 (9th Cir. 1994) ("A Traverse is not the proper pleading to raise additional grounds for  
[federal habeas] relief."), cert. denied, 514 U.S. 1026 (1995).